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Transparency and International Environmental Politics

Aarti Gupta and Michael Mason

Introduction

Transparency is increasingly the subject of scrutiny and controversy in the social sciences (Florini, 2007; Graham, 2002; Gupta, 2008; Langley, 2001; Mol, 2008). The concept is linked to the most politically charged debates of our times, relating to due process and good governance, human rights, global security, and the need for oversight of markets in an era of unfettered globalization (Grigorescu, 2007; Lord, 2006; Roberts, 2004). In this chapter, we analyze the rise and effects of what we posit to be a ‘transparency turn’ in international environmental politics as well. A call for transparency increasingly informs actor expectations in a diverse array of environmental issue areas. Both state and non-state actors embrace transparency as a necessary feature of decision-making and/or regulatory action to address transboundary environmental problems. Diverse actors are championing transparency as a means to enhance efficiency, accountability, and/or effectiveness of international environmental policy outcomes. Furthermore, a wide range of governance modalities (informal, formal, voluntary, mandatory) call for disclosure, suggesting a malleability between transparency norms and diverse

institutional forms of environmental governance that deserves more sustained theoretical and empirical attention.

In much scholarship and policy practice, transparency is assumed to be a necessary precondition for more accountable, democratic, and effective policy and governance outcomes (Dingwerth, 2007; Dryzek, 1999; Held, 2004; Keohane, 2006). Yet, a growing number of transparency analysts are now revealing not only the promise but also the pathologies of relying on transparency to meet specific governance ends (Bannister and Connolly, 2011; Fung et al., 2007; Hood and Heald, 2006; Lord, 2006). Such scholarship suggests that the ideal(s) of transparency might be contested or not attained in practice. There remains thus a compelling need to investigate the growing pervasiveness and implications of an embrace of transparency in international environmental politics, one that extends beyond state-led international environmental regimes (Mitchell, 1998), to include private and market-based governance as well (Langley, 2001).

In doing so, a first step is to clarify how transparency is being conceptualized in diverse scholarly writings, and how we operationalize the concept in this chapter. Transparency is most often associated with openness and flows of information (Gilbert, 2007; Etzioni, 2011; Heald, 2006; Mitchell, 2011). Etymologically, it refers to *rendering visible* (Michener and Bersch, 2011). For purposes of this chapter, we conceptualize transparency as *disclosure of information intended to evaluate and/or steer behavior*. Our interest here is in the phenomenon of ‘governance by disclosure’ (Gupta, 2008), by which we understand public and private governance initiatives that employ targeted disclosure of information as a way to evaluate and/or steer the behavior of selected actors. We view the proliferation of governance by disclosure in international environmental politics as clearly reflective of a transparency turn in this realm.

Furthermore, such a transparency turn is ‘multidirectional’ (Michener and Bersch, 2011: 5), insofar as it is fueled by multiple architects and recipients of transparency, going beyond states to include corporations, civil society groups, international organizations, consumers, and citizens.

Governance by disclosure initiatives in the international environmental domain include, for example, the multilaterally negotiated Aarhus Convention on the right to environmental information, where disclosure of environmental information from states is linked to a right to know and enhanced citizen participation and access to justice (Krämer, 2012; Mason, 2014). A range of prior-informed consent-based global treaties governing trade in restricted pesticides, hazardous waste, or genetically modified organisms (GMO) also seek to govern risk by furthering a right to know about global transfers of risky substances, and a right to choose whether to accept such transfers (Jansen and Dubois, 2014; Langlet, 2009). In addition, private eco-labeling schemes in forestry, fisheries, or the organic food sector rely on information disclosure to achieve a variety of governance ends, including empowering consumers to choose and improving sustainability performance (Auld and Gulbrandsen, 2010; Dingwerth, 2007; Dingwerth and Eichinger, 2010). Diverse corporate voluntary initiatives are also premised on the power of disclosure to achieve various ends, including the Global Reporting Initiative (GRI) (calling for sustainability reporting by private corporations) or the NGO-led Publish What You Pay (calling for disclosure of revenue earnings by extractive industries operating in resource-rich developing countries) (Clapp, 2007; Pattberg and Onechi, 2009). Lastly, information disclosure is central to efforts by international organizations, such as the World Bank or the World Trade Organization, to improve accountability through disclosure (Roberts, 2002, 2004; Grigorescu, 2007).

All of the above initiatives vary greatly in terms of who is pushing for disclosure, from whom, and to what end. Notwithstanding these differences, underlying all of them is the fundamental presumption that information matters. If so, it becomes important to assess both the causes for a growing embrace of transparency and the effectiveness of governance by disclosure in a global context. We do so here by first reviewing diverse conceptual perspectives on transparency in international relations, distinguishing between institutionalist and critical theoretical perspectives, including relevant variants of each. We next advance an analytical framework for comparative assessment of the *uptake, institutionalization, and effects* of governance by disclosure in the international environmental realm. Section three briefly illustrates the evaluative prowess of this framework by applying it (selectively) to a diverse set of environmental governance by disclosure initiatives. In concluding, we put forward some general propositions about the prospects for transparency to improve the procedural quality and substantive outcomes of international environmental governance. We close by identifying areas for future research.

Theorizing transparency: Conceptual perspectives

Various strands of scholarly literature in comparative politics and international relations have analyzed the causes and consequences of an embrace of transparency in the international environmental realm. National-level legal and economic analyses of environmental policy were among the first to draw attention to what Ann Florini (1998) has labeled ‘regulation by revelation’ in specific developed country contexts (for example, Graham, 2002; Beierle, 2004; Fung et al., 2007; Gouldson, 2004; Konar and Cohen, 1997). Such scholarship has now expanded to generate insights about the diffusion and effects of right-to-know and access to

information laws across the globe (for example, Florini, 2007). Such diffusion of transparency and disclosure norms and practices from industrialized to emerging economies— notably pollution release and rating programs – has stimulated further comparative research on transparency and its link to policy outcomes (for example, Blackman et al., 2004; Garcia et al., 2009; Gupta and Golder, 2005; Kathuria, 2009). This has been complemented by writings in international relations focusing on transparency’s effects in improving oversight of international financial markets and enhancing (or reducing) the prospects for global security (Best, 2005; Lord, 2006; Soederberg, 2001; Stasavage, 2003).

Such analyses have been undertaken from both institutionalist and critical theoretical perspectives (see Paterson, this volume). In international relations scholarship, *institutionalist* perspectives have emphasized the importance of openness, communication, and information exchange as central to more effective and accountable (global) governance. The basic premise is that institutions – conceived as organized clusters of rule-making and collective behavior – can increase cooperation among states by correcting for information asymmetries and rationalizing decision-making (see, for example, Mitchell, 1998, 2011; Keohane, 2006). In research on international environmental politics, two strands of institutionalism – liberal institutionalism and rational institutionalism – have generated significant work on transparency.

Liberal institutionalism (underpinning ‘international regime analysis’) posits that transparency in transboundary environmental rule-making promotes inter-state cooperation by rendering more open and publicizing shared interests and actor commitments (Konar and Cohen, 1997; Stephan, 2002). The global institutionalization of information disclosure in the environmental realm ranges from multilateral obligations on notification and prior-informed consent in governing transfers of risky or hazardous substances, to the transnational diffusion of

voluntary sustainability reporting standards. In analyzing such cases of transparency in international politics, liberal institutionalists are apt to attribute the lack of effective disclosure-based governance to shortfalls of design or capacity, and concurrent failure to embed transparency within the decision contexts of both disclosers and recipients (Bauhr and Nasiritousi, 2012; Florini, 2007; Fung et al., 2007). This promotes a functionalist concern with institutional design and capacity-building relating to governance by disclosure mechanisms.

Rational institutionalists view institutions as sets of incentives shaping the calculations of rational actors with regard to their environmental preferences. The nature and scope of institutionalized disclosure is argued to affect the payoff functions of polluters, whether these are firms (Garcia et al., 2009; Peck and Sinding, 2003) or states (Barrett, 2003; Bosetti et al., 2013). In this economic approach to the role of transparency in politics, the structured disclosure of environmental information assures relevant actors that free-riding polluters are easier to identify and thereby sanction. Dysfunctionalities in transparency arise or are explainable by actor preferences being distorted or skewed by the disclosure of incomplete or unreliable data, or the lack of comparability, comprehensibility, or accessibility of environmental information.

In contrast to institutionalism, *a critical theoretical perspective* on transparency emphasizes that its uptake, institutionalization and effects need to be analyzed within broader, often contested, political-economic and normative contexts within which disclosure is being deployed. Critical perspectives thus stress the historicity and socio-political conditioning of transparency and disclosure practices; and acknowledge the unavoidable normativity (value-laden structure) of transparency. Two important strands of a critical perspective on transparency in international politics are constructivism and critical political economy.

Constructivist analyses of science, knowledge, and information have long highlighted the changing authority and accountability relationships around the generation and sharing of information in governing transboundary environmental challenges (see Lövbrand, this volume). As writings in this vein suggest, current global environmental challenges, such as climate change or safe use of biotechnology, are characterized by fundamental normative and scientific uncertainties over what is valid knowledge and whose information counts. If so, agreeing on what is ‘more and better’ information, that is, on the scope and quality of information, is inevitably a matter of political conflict (Forsyth, 2003; Liftin, 1994; Jasanoff, 2004). Such insights are centrally relevant to the study of governance by disclosure. They suggest that the effects of disclosure depend *not* on reducing information asymmetries, and hence promoting more rational outcomes, but rather on whose information counts and is accorded primacy. From such a perspective, transparency itself is contested political terrain, whereby the very process of negotiating the scope and practices of disclosure serves to selectively frame and hence constitute the object of governance (Jasanoff, 2004; Gupta et al., 2014).

Critical political economy perspectives (for example, Clapp, 2007; Clapp and Helleiner, 2012; Levy and Newell, 2005; Newell, 2008a, 2008b; Stevis and Assetto, 2001) constitute another important lens into the uptake, institutionalization, and effects of transparency in international politics. These perspectives emphasize the current dominance in international environmental politics of what Steven Bernstein (2001) labels ‘liberal environmentalism’ – an authoritative complex of norms framing environmental governance challenges according to market liberal rights and values. From this perspective, transparency’s uptake and effects in international environmental politics need to be understood within a broader (unequal) political economic context, one in which private actors have a major role both in shaping and deploying

public modes of information disclosure. Given the global policy currency of liberal environmentalism, critical political economy posits that transparency, if adopted, will have minimal market-restricting effects.

Such a critical take acknowledges that transparency may *reproduce rather than disrupt* socially and ecologically harmful concentrations of public and private power. This is of particular relevance to an analysis of transparency in a global context, characterized by North–South disparities in the capacities to demand disclosure, and to access and use disclosed information. It points as well to a paradox of the transparency turn in global politics: that in certain instances, the desired quality and quantity of disclosed information (such as its breadth, comparability, comprehensibility, comprehensiveness, or accessibility) *follows upon* rather than *precipitates* changes in the broader normative and political context. Thus, greater levels of actionable transparency may only be obtainable *after* broader democratic, participatory, and environmental sustainability gains are secured in a given context, rather than being the cause for such gains (Florini and Saleem, 2011; Gupta, 2010b). This leaves open a fundamental question: is transparency epiphenomenal? Even as transparency becomes ubiquitous in global environmental governance, its transformative potential remains uncertain and contingent.

As one approach to assessing transparency’s transformative potential systematically, we outline below an analytical framework with which to explain the *uptake and institutionalization* of governance by disclosure in specific instances, and evaluate its *effectiveness*, with effectiveness understood both as improved procedural quality and enhanced substantive outcomes. This framework is informed by constructivist and critical political economy approaches, combined in what we label a ‘critical transparency studies’ perspective.

Evaluating transparency: An analytical framework

In this section, we advance an analytical framework that allows for (comparative) analysis of the application and shifting representations of transparency, as shaped by political-economic and geopolitical constellations of power. We draw on current thinking and debates to advance a set of propositions about the drivers of transparency's uptake, its institutionalization and its varied effects in international environmental politics.

Drivers of disclosure: Democratization and marketization

As the varied literature on transparency to date has documented, a growing embrace of transparency in global politics is being stimulated, partly, by a rights-based democratic push for individual liberty, choice, and participation (Graham, 2002; Gupta, 2008; Mason, 2008). We label this a *democratization* driver, insofar as democratic forms of environmental governance seem to call for open and inclusive forms of collective choice. A democratization driver of transparency is seen to underpin, for example, the spread of 'right to know' and freedom of information laws in multiple national contexts over the last quarter century (Florini, 2007).

This has now evolved, however, into a broader association of transparency with securing multidirectional accountability, and a more legitimate and democratic global polity (for example, Dingwerth, 2007; Keohane, 2006; Mason, 2005). Those positing such relationships assume that disclosure of relevant information is often a necessary step in holding actors to account for their (in-)actions according to set environmental standards. A reasonable expectation is that insofar as information is disclosed by those responsible for decisions that significantly affect the interests of others, such disclosure will facilitate individual and institutional answerability or even change. However, this involves assumptions about the capacity and responsiveness of particular actors,

as well as the political systems within which they operate (Fox, 2007), including the assumption that democratic institutions foster greater accountability for environmental harm.

A key question then becomes whether a democratic rationale for disclosure is significant in the growing uptake of transparency in the environmental domain, and whether it is necessarily *liberal* democratic. While there is a substantial literature on the relationship between democratic decision-making and ecological sustainability, much of it informed by theories of deliberative democracy (for example, Baber and Bartlett, 2005; Bäckstrand, 2010; Smith, 2003), the relationship between transparency and democratization remains less studied.

Tensions arise from the fact that efforts to improve the democratic quality of environmental governance, through information disclosure, often go hand-in-hand with a neoliberal privileging of market-based solutions to global sustainability challenges and 'light touch' regulation of the private sector (Gupta, 2010b; Mason, 2008, 2014). This can stimulate an uptake of market-based and voluntary transparency as a default option to avoid more stringent or costly governance pathways (Lyon and Maxwell, 2011). This *marketization* driver of disclosure can result in an embrace of transparency with minimal market restricting effects, and one that exempts corporate actors from stringent disclosure (Florini, 2008; Haufler, 2010). Alternatively, however, disclosure of (certain types of) information might well be seen as essential to the establishment and functioning of *newly created markets* in environmental goods and services, such as those for carbon or genetic resources. In such cases, transparency might be promoted by powerful actors, such as corporations and policy elites, as desirable and necessary in order to create and facilitate markets, rather than being perceived as a threat in its potential to restrict markets (in, for example, environmentally harmful products).

A key element of a transparency research agenda thus consists of whether and how these two drivers of democratization and marketization shape uptake and institutionalization of transparency in the international environmental realm, and the extent to which they work in complementary or conflicting ways.

Institutionalization of disclosure: Shifting sites of sovereign authority

A democratization or marketization imperative for disclosure, and the ways in which these drivers intersect, necessarily shapes the institutionalization of transparency in specific instances. Distinctive regulatory possibilities and limits are created, depending upon whether disclosure is led by/solicited from public authorities or private actors. Following an extensive assessment of the institutionalization of information in governance, Mol (2008: 87–89) discerns, for example, a set of institutional tendencies in what he terms ‘informational governance’, notably *a de-centering of state-based regulation and opening up of political space for other (non-state) actors*. Comparative in-depth case analysis is required to assess whether this indeed holds in the global environmental realm. In a given instance of governance by disclosure, the mapping out of institutionalization needs to identify the quantity (scope) and quality (attributes) of the disclosed information; the infrastructural designs steering the exchange of information between disclosers and recipients; and the role of information intermediaries in facilitating (or blocking) the usability and reach of environmental information.

Much scholarly and policy attention has focused, for example, on attributes of disclosed information as being central to the success of transparency-based governance. These include whether disclosed information is (perceived to be) accessible, comprehensible, comparable, accurate, or relevant (Dingwerth and Eichinger, 2010), and whether it is standardized or non-standardized. A related, increasingly important, development in transparency politics is the rise

of information *intermediaries or infrastructures* that seek to validate or increase the utility of disclosed information for specific stakeholders (Etzioni, 2010; Fung et al., 2007; Graham, 2002; Gupta, 2008; Lord, 2006). These include auditors and verifiers of disclosed information, or civil society groups seeking to render disclosed information more user-friendly (see also Langley, 2001 for an early and detailed discussion of this). Such new transparency ‘powerbrokers’ may produce shifts in the loci of authority and expertise in environmental governance that shape how disclosure will be institutionalized and the concurrent effects that it will produce.

Effects of disclosure: Normative, procedural, and substantive

In addition to identifying the drivers of disclosure and dynamics of institutionalization, assessing the effectiveness of disclosure-based governance is the third pillar of the analytical framework outlined here (see also Young, this volume). An evaluation of transparency’s effectiveness requires, however, prior conceptual clarity on *distinct categories of effects*. The effectiveness of traditional environmental regulatory instruments is often primarily assessed in terms of reduced environmental harm (EEA, 2001; Mitchell, 1998; Young, 1999). Yet the ends sought to be furthered by governance by disclosure are broader, requiring an analytical openness to a variety of effects.

In line with this, we posit here three categories of effects: normative, procedural, and substantive. First, underlying most governance by disclosure initiatives is the normative rationale that recipients of information have a ‘right to know’ about damaging environmental behaviors or products (Beierle, 2004; Rowen-Robinson and Rothnie, 1996). Given the broad association of transparency with a right to know (for example, Florini, 2007), a goal to inform is thus a first step in embedding transparency entitlements within environmental governance. If so, the extent to which governance by disclosure furthers a right to know (and whose right to know) is an

essential element in assessing its *normative effectiveness*. This requires analysis of whether a right to know is contested or not, and whether and how it is being institutionalized in practice in a given disclosure initiative.

Going beyond a right to know, transparency is also closely associated, in multiple political and legal analyses, with *procedural effects* related to the quality of governance processes (Graham, 2002; Gupta, 2008; Stasavage, 2003; van den Burg, 2004; Keohane, 2006). The procedural goals of disclosure can thus include holding disclosers accountable, as well as enhancing participation or the informed choice of information recipients. Assessing the procedural effectiveness of governance by disclosure thus requires assessing the extent to which these goals are accepted, institutionalized and attained in practice.

Finally, disclosure also aims for improved *substantive* outcomes, such as reduced emissions, risk mitigation and environmental improvements (for example, Gouldson, 2004; Stephan, 2002; Mitchell, 1998; Fung et al., 2007). A key example is the much-analyzed United States Toxic Release Inventory, where an ultimate goal of disclosure is reduced emissions of toxic pollutants (for example, Konar and Cohen, 1997). In global environmental governance, these substantive regulatory goals converge on the prevention or mitigation of significant transboundary environmental harm or harm to the global commons. Yet the link between transparency and environmental improvements remains both little examined and challenging to assess. This is related to long acknowledged causality challenges inherent in such assessments. It is also perhaps linked to a more dominant association of transparency with a procedural turn in environmental governance, whereby its empowerment potential (and link to accountable, participatory and legitimate governance) may often be privileged over its role in securing substantive environmental gains (for example, Rose-Ackermann and Halpaap, 2002, see also

Gupta, 2008). Yet the relationship between transparency and substantive environmental improvements is ever more important to assess, insofar as disclosure might be relied upon, more so than previously, as an innovative means by which to secure (transboundary) environmental improvements in a neoliberal, marketized global governance context.

In the next section, we analyze some of the issues briefly sketched above in an illustrative comparative empirical examination of a number of governance by disclosure initiatives in international environmental politics.

Evaluating transparency: A comparative empirical assessment

A critical transparency studies approach is amenable to multiple research methodologies. In this section, we briefly illustrate the merits of a *comparative case study approach*, as one that is particularly well suited to explaining the unfolding of transparency initiatives across diverse modalities of international environmental governance. In doing so, we touch upon four significant examples of governance by disclosure in international environmental politics – two state-led multilateral agreements (the Aarhus Convention and the Cartagena Protocol on Biosafety) and two private voluntary disclosure initiatives (the Carbon Disclosure Initiative and the GRI). We select these cases to illustrate the *multidirectional and hybrid (public-private)* nature of transparency's role and impact in international environmental politics. We first provide a brief introduction to each below.

Aarhus convention

The 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (henceforth Aarhus Convention) is the most far-reaching expression in international environmental law of transparency and information disclosure norms. Negotiated under the auspices of the UN Economic Commission for Europe, it codifies citizen rights to information access, public participation and access to justice in environmental matters. These are non-discriminatory entitlements for individual and civil society actors within and across the territories of all parties to the convention. The convention imposes mandatory information disclosure duties on public authorities, including both passive (request-based) and active measures. Private entities are excluded from these provisions, although a 2003 Protocol on Pollutant Releases and Transfer Registers indirectly creates disclosure obligations on private operators of relevant industrial facilities. An oft-noted characteristic of the Aarhus Convention is its innovative compliance mechanism, which includes rights of public actors to submit allegations of non-compliance to the convention compliance committee and launch liability claims against those alleged to be breaching *any* environmental law within the jurisdiction of an Aarhus member state. These rights strengthen the scope and depth of Aarhus obligations on information disclosure (Mason, 2014).

Cartagena Protocol on Biosafety

Negotiated under the auspices of the Convention on Biological Diversity, this multilateral agreement seeks to govern the safe transboundary transfer and use of **genetically modified organisms** (GMOs). Ensuring safe trade in GMOs is a controversial global anticipatory governance challenge, one where the very existence of risk remains contested, but also one where information disclosure is central to current global governance efforts. The Cartagena Protocol was negotiated at the insistence of developing countries who were concerned about the

spread of novel genetically modified seed and crop varieties into their territories without their knowledge. They demanded the right to know about and choose whether to permit or restrict such transfers. The Cartagena Protocol thus calls for the *advance informed agreement* of an importing country prior to trade in some GMOs. It thus seeks to further an importing country's normative right to know about entry into its borders of GMOs through labeling requirements, as well as the procedural and substantive goals of importer choice and regulatory oversight over GMOs (Clapp, 2007; Gupta, 2010a, 2010b).

Carbon disclosure project

In the realm of corporate social responsibility, the Carbon Disclosure Project (CDP) is arguably the most important voluntary mechanism advancing disclosure of corporate greenhouse gas emissions, energy use and, more recently, exposure to deforestation risks. Founded in 2001 by a non-profit organization based in London, the CDP represents a consortium of institutional investors holding, by 2013, \$87 trillion of assets (Carbon Disclosure Project, 2013). The CDP's core disclosure-based climate governance strategy revolves around an annual questionnaire to be completed by the world's largest companies that requests information on climate-related risks and opportunities, and their carbon management strategies. There is now a substantial level of reporting: according to the CDP; over 3,000 companies responded to the 2011 questionnaire, including 81 per cent of the Global 500 (Carbon Disclosure Project, 2013). Individual public responses to the questionnaire are available on the CDP website, although CDP signatories, as investor members, can benefit from advanced comparative analysis of reported data. The CDP has been the focus of much international environmental governance research recently (for example, Kolk et al., 2008; Newell and Paterson, 2010; Knox Hayes and Levy, 2014).

Global Reporting Initiative

The GRI is a quintessential example of voluntary, private governance by disclosure in the international environmental realm. It consists of an extensive global multi-stakeholder effort to produce detailed guidelines for sustainability reporting by private companies. It is one of the longest established and most broad ranging corporate sustainability disclosure initiatives now in place. It is also of growing interest to scholars of corporate social responsibility and private (transnational) governance (for example, Clapp, 2007; Dingwerth, 2007; Pattberg and Enechi, 2009). Emerging research on the GRI suggests that, notwithstanding elaborate, time consuming and resource intensive efforts to generate large amounts of sustainability data and disclose it, its utility to intended beneficiaries is often minimal (for example, Dingwerth and Eichinger, 2010).

Space constraints preclude a full application of our analytical framework to each of the four cases noted above. In what follows, we focus on two specific elements of our framework: first, whether and how the *institutionalization of transparency in each case decenters state-led regulation*; and second, the *normative, procedural and substantive effects* of such governance by disclosure initiatives in the international environmental realm.

Institutionalizing governance by disclosure: Decentering state-led regulation?

For the multilateral disclosure regimes represented by the Aarhus Convention and the Cartagena Protocol, the institutionalization of disclosure reveals limits on usable disclosure by recipients in each case (for detailed analyses of these two cases, see Gupta, 2014; Mason, 2014). The manner of institutionalization in each case indicates, furthermore, a partial confirmation of the proposition advanced in the previous section, that transparency might decenter state-led regulation and open up political space for other actors. An analysis of institutionalized disclosure in these cases indicates that *transparency qualifies state sovereign authority but does not*

necessarily weaken it. In one sense, this is no more than the familiar pooling of state sovereign powers well established in public international law. Transparency-based international regimes create state entitlements and duties based on the voluntary consent of parties to a treaty. This is reflected as well in the general access to information provisions in the Aarhus Convention, and the more specific disclosure rules on GMOs in the Cartagena Protocol.

This said, however, the propensity of states to adopt multilateral transparency norms and rules reflects their sensitivity to perceived domestic and external impacts on sovereign authority, constituting a geopolitics of information disclosure that reflects power differentials within and between developed and developing countries. This reveals, as well, a need to *differentiate between types of states* in assessing impacts of institutionalized disclosure on state-led regulation and authority. One conspicuous institutional logic running through the two examples evoked here is that of developed countries promoting global diffusion of transparency rules with *high policy currency in their domestic contexts*. This is evident from the diffusion of pollutant release and transfer registers (Aarhus Convention); and from the specific limits on global GMO-related disclosure resulting from market liberal property rights norms and rules dominant in GMO exporting countries (Cartagena Protocol).

Furthermore, the institutionalization of transparency in such state-led disclosure arrangements is also *inflected by private authority*, and is shaped by a dominant marketization impetus underpinning transparency's institutionalization in international environmental politics. In the case of the Aarhus Convention, private enterprises are excluded from its mandatory information disclosure duties, which fall on public authorities, although pollution and release and transfer registers create indirect obligations on private operators. In the Cartagena Protocol, the major weight given to the *caveat emptor* (buyer beware) dictum in regulatory choices about

GMOs puts poorer (GMO importing) countries at a disadvantage in their attempts to be informed about and mitigate risks relating to GMO imports. Similarly, the protocol's disclosure obligations are limited to information that is already known to exporters, ensuring that existing market practices do not have to change to comply with this global disclosure-based regime. Again, however, this effect varies by differential state power, as more powerful countries and trading blocs (such as the EU) can force GMO exporting countries to generate and disclose new information, typically by bypassing the Cartagena Protocol in favor of unilateral measures.

For the voluntary sustainability disclosure yielded by the GRI and the Carbon Disclosure Project, an original democratization impetus for transparency in both cases is again skewed in practice by a more dominant marketization imperative driving institutionalization of disclosure. There is ongoing bargaining between non-state rule-makers and corporate disclosers over the quantity and quality of disclosed information; for example, there are significant tensions between the corporate comparability goal of the GRI and the discretion allowed companies to incentivize their self-reporting. There is also an important trend for sustainability reporting to become commodified: the Carbon Disclosure Project and GRI have, directly or indirectly (via commercial intermediaries), generated extensive paywalls behind which enhanced interpretive products are available, weakening their public transparency claims (Knox Hayes and Levy, 2014; Dingwerth and Eichinger, 2014).

In sum, the discussion above indicates a general finding across the cases with regard to drivers of disclosure and its institutionalization: that a marketization driver of transparency's uptake dominates, even as it contributes to a reconfiguring (rather than necessarily a weakening) of state sovereign authority. We turn next to the effects of disclosure-based governance.

Effectiveness of governance by disclosure: Normative, procedural and substantive effects

To recall, we propose a broad typology of effectiveness in order to capture a range of (potential) effects attributable to transparency-based governance – normative, procedural, and substantive.

We address below whether such effects are being realized in the cases discussed.

Normative effects: The normative aim of governance by disclosure is ensuring the ‘right to know’ about environmental performance and/or harm, geared mainly to civil society recipients but also to states and corporate actors. For individuals (as citizens or consumers), the moral authority infusing the right to know is closely affiliated with democracy and participation. Its strongest legal expression in international environmental politics is in the access to information entitlement of the Aarhus Convention, where it attains the status of a cosmopolitan human right. While the right-to-know also features prominently in other governance by disclosure initiatives, it is either restricted to national settings (for example, domestic right-to-know laws); subsumed within problem-specific treaty entitlements (for example, Cartagena Protocol); or facilitated in actor- and sector-specific domains by civil society organizations (for example, CDP and GRI).

Across all these manifestations – including Aarhus rights – the public right to know is, however, restrained or diluted by countervailing norms, unsettling its governance legitimacy. The most potent are moral and legal norms underpinning the private authority of actors in market liberal systems of resource allocation; thus, we encounter environmental disclosure obligations constrained by corporate voluntarism (non-financial reporting systems), commercial confidentiality (Aarhus Convention), or the caveat emptor (‘buyer beware’) dictum (GMOs).

In summary, while right-to-know serves as a widely accepted normative justification of transparency in international environmental politics, its legal application tends to be compromised by the political deployment of market liberal or state sovereign norms.

Procedural effects: The procedural goals of transparency in environmental governance include empowering information recipients to perform meaningful governance roles, notably holding disclosers accountable and making choices that are more informed. Comparative analysis of the disclosure initiatives noted above suggests, however, that little sustained empowerment of intended information recipients is occurring to date in the cases examined.

The Aarhus Convention has arguably made the greatest legal progress with transnational public entitlements to environmental information and non-compliance notifications, as a way to empower. Yet there have been repeated procedural blockages by convention parties to public information requests, and this opposition is often justified in relation to the discretion allowed parties when implementing treaty obligations. The formal procedural rights for public actors created by the Aarhus Convention are, furthermore, not necessarily mirrored in the disclosure regime for global biosafety governance, whereby a holding to account by importing countries is rendered difficult by the limited disclosure obligations placed on those exporting potential risk. Procedural shortcomings concerning access to information by civil society actors are also apparent in voluntary environmental reporting, where civil society actors are intended to be either a primary or secondary recipient of information. The claim that these initiatives share – that disclosure is at least partly a means of public accountability – thus falls short in practice. For both the GRI and CDP, there are weaknesses in public participation both at the system governance level and in terms of the usability of disclosed information for accountability claim making. According to Knox Hayes and Levy (2014), these voluntary corporate disclosure

systems are limited by their focus on managerial processes and lack of comparability across forms, as well as by the lack of sanctions for non-compliance.

Substantive effects: Transparency and disclosure of environmental information can support substantive regulatory goals, such as reduced pollution emissions and the conservation of biodiversity. The direct substantive effect often attributed by proponents of disclosure is that the sharing of information will render producers of environmental damage or risk more responsive to regulatory pressures. Not surprisingly, the more process-oriented Aarhus convention does not contain substantive environmental standards, assuming instead that its substantive aims of improved environmental health and safety will flow from procedural openness, access to participation and justice. Other multilateral environmental agreements, including the Cartagena Protocol, are more centrally animated by harm prevention goals. Yet there are negligible treaty-based data sources on the environmental effects of the relevant disclosure measures, for reasons that include evaluative uncertainties, measurement difficulties, and a preoccupation with trade rather than environmental outcomes. It is instructive that, in the GMO governance case, various countries have bypassed the Cartagena Protocol's disclosure-based approach to governance by opting for unilateral moratoria or bans to achieve environmental and health protection goals.

In the voluntary realm of sustainability reporting systems that focus on managerial processes, the evidence on substantive environmental effectiveness is also slight. Dingwerth and Eichinger (2014) note the rising number of corporate reports registered under the GRI, but caution that the lack of data specificity and comparability prevents any meaningful assessment of environmental performance patterns. Knox Hayes and Levy (2014) reach the same conclusion in relation to corporate carbon disclosure systems, which, they claim, do not appear to be shifting core product or marketing strategies in a low-carbon direction. As with mandatory governance

by disclosure, the monitoring and analysis of environmental outcomes by voluntary disclosure systems is still in its infancy.

Conclusions

This chapter began with the proposition that there was a ‘transparency turn’ in international environmental politics, suggesting a need to systematically assess its drivers and effects. The overview of disclosure-based governance undertaken here allows us to conclude that information disclosure is becoming a widely accepted norm and practice in multilateral and transnational governance of environmental harm and improved sustainability performance. At the same time, any claims about the ‘rise and rise of transparency’ in international politics (Raab, 2008: 600) need to be tempered by acknowledgment of competing trends that restrict the scope of actionable disclosure. These can be related to commercial confidentiality, the particularities of a neoliberal context within which disclosure is being promoted, scientific unknowabilities and uncertainties, or even to limits on the desire of society to know about (production and distribution of) environmental harm (Dingwerth and Eichinger, 2010). The transparency turn in global environmental governance is thus evident but partial.

This chapter has also highlighted the broader (contested) normative context that shapes the embrace of transparency by various actors, and its uneven institutionalization in the international environmental realm. As is evident from the empirical examples addressed here, struggles over the scope and practices of transparency are intensifying, and its effects are not necessarily positive in governance terms. The future research agenda of transparency studies then requires engaging, at the very least, with the rise of what Mol (2014) calls ‘reflexive transparency’ that is, secondary layers of disclosure necessary to render primary disclosure

usable; as well as the infrastructures and powerbrokers of a transparency turn in governance. Such developments can only be understood by critically analysing transparency's particular material and discursive contexts of application. Such an understanding is necessary to negotiate the multi-layered, contested realms of transparency-based international environmental politics.

With regard to the legitimacy and effectiveness of such an approach to policy and governance, the relatively recent embrace of transparency as a regulatory tool cautions against a too quick dismissal of its potential to generate substantive environmental improvements. Furthermore, the transformative promise of governance by disclosure goes beyond substantive impacts to include normative and procedural effects as well. As indicated above, however, these effects are being circumscribed in practice by market liberal norms. This yields a proposition that requires further comparative assessment: that transparency-based governance may well face a *legitimation deficit*, insofar as it fails to fulfill its emancipatory and transformative potential.

The sources of legitimacy underpinning transparency-based governance derive, as we have indicated in this chapter, partly from a democratization impetus to governance, creating expectations among domestic and transnational publics that information disclosure will facilitate accountability claims against state and non-state actors responsible for producing significant environmental harm. Disclosure-based governance also fosters political legitimacy insofar as it enriches public understanding of what is proper in relation to the collective decisions of (potential) harm producers.

This notwithstanding, the inadvertent, indirect harm typically associated with transboundary environmental problems lends many governance by disclosure initiatives an air of experimentation concerning their intended substantive effects; and legitimacy becomes less

feasible when expected from steering mechanisms coordinating dispersed decision-makers and affected publics. Furthermore, as the multidirectional character of governance by disclosure indicates, there remains a political struggle over legitimate arenas for disclosure rulemaking and implementation, across diverse contexts and across hybrid configurations of state and non-state authority. There are, to be sure, cogent suggestions that increasing transparency in both state-led (vertical) and non-state (horizontal) multi-level governance can increase political legitimacy, if fed into more inclusive, deliberative systems of decision-making (Bernstein and Cashore, 2007; Dryzek and Stevenson, 2011). However, it may also be that increasing transparency and information disclosure will instead amplify the current legitimization deficits in global environmental governance, by locating the systemic sources of harm production in broader relations of political and economic power (Newell, 2008a). It is in this sense that governance by disclosure might itself face a legitimization deficit. A question for future research remains then the conditions under which transparency-based governance can overcome such potential legitimization deficits and thereby fulfill its transformative potential. This would also be fruitful to assess comparatively vis-à-vis other international policy domains.

Another aspect of such a future research agenda turns on the merits and attainability of ‘full’ versus ‘partial’ transparency and the implications for policy and governance outcomes. In the policy domains of international finance, security and diplomacy, an oft-posed question turns on whether ‘full disclosure’ is necessary, feasible and/or desirable, in fulfilling the transformative potential of transparency. Most analyses conclude that complete disclosure in such areas is both unattainable and undesirable, given the merits of retaining varying degrees of secrecy, anonymity, or privacy in many instances (for example, Birchall, 2011; Lord, 2006). This raises, however, an intriguing question that we have only begun to touch upon in international

environmental scholarship on transparency: how precisely is the (global) environmental realm distinct? The imperative to balance transparency with secrecy, privacy and anonymity arguably does not hold in this policy domain to the extent that it does in others, yet this has not been systematically analyzed. Future research could fruitfully shed light on the specific features of global environmental governance challenges that either impede full disclosure, or make its pursuit more or less desirable. It remains an important empirical question what the limits of full disclosure, and the merits and demerits of partial transparency in international environmental politics are, given the geopolitical and material contexts for such disclosure.

Annotated bibliography

Fung, A., M. Graham and D. Weil (2007) *Full Disclosure: The Perils and Promise of Transparency* (New York: Cambridge University Press).

This important book is one of the first to examine whether transparency works as intended in a variety of policy fields, such as health, finance, education, national security and environmental pollution control. It introduces the concept of ‘targeted transparency’ and outlines conditions under which targeted disclosure of information can achieve desired aims. It is primarily concerned, however, with the national context of the United States, and deals almost exclusively with *public* transparency, that is its scope is government-mandated, national-level US transparency policies.

Florini, A. (ed.) (2007) *The Right to Know: Transparency for an Open World* (New York: Columbia University Press).

This edited volume, compiled by a leading scholar of transparency studies, focuses on the diffusion of ‘right to know’ laws globally, and their functioning in diverse national contexts (for

example, India, China, Nigeria) and across a range of institutional domains (for example, international financial institutions, the security sector, as well as environmental governance).

Gupta, A. and M. Mason (eds) (Forthcoming 2014). *Transparency in Global Environmental Governance: Critical Perspectives* (Cambridge, MA: MIT Press).

This is the first comprehensive examination of the nature and implications of a transparency turn in international *environmental* governance. It advances a ‘critical transparency studies’ lens to analyze whether transparency informs, empowers and improves environmental outcomes in this policy domain. It does so by bringing together ten in-depth case analyses of ‘governance by disclosure’, including both public and state-led and private voluntary disclosure initiatives in international environmental politics.

Lord, K. (2006) *The Perils and Promise of Global Transparency: Why the Information Revolution May not Lead to Security, Peace or Democracy* (New York: SUNY Press).

While not addressing environmental issues, this important contribution to transparency studies from political science and international relations offers a critical perspective on transparency, arguing that it is not the panacea that it is often assumed to be. Lord’s book focuses on the role of transparency in conflict resolution and international security, and on the potential harmful uses of transparency in these policy domains by authoritarian governments and non-state actors.

Mol, A. (2008) *Environmental Reform in the Information Age: The Contours of Informational Governance* (New York: Cambridge University Press).

This comprehensive treatment in environmental sociology explores how (global) environmental governance is changing under the conditions of the Information Age. Mol advances the concept

of ‘informational governance’ here in examining how information is increasingly becoming central to globalized and multilevel and multi-actor networked environmental reform processes.

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Notes

This chapter draws upon and synthesizes the introductory chapter and main conclusions of a recently concluded comprehensive comparative assessment of 'Transparency in Global Environmental Governance', now forthcoming as an edited volume with MIT Press (Gupta and Mason, 2014).